[Mr. K. Anantanarayana Aiyar.]

MR. A. GOVINDA MENON: Yes, Sir, I beg to withdraw the motion.

The motion was, by leave, withdrawn.

The Demand under XXIV—Miscellaneous—for '38 lakh was then put to the House and carried and the grant made.

Demand XXV—Reserve with Government.

MR. K. GEORGE: Sir, I move for a grant not exceeding Rs. 35 lakh under Demand XXV—Reserve with the Government, Miscellaneous.

The President put the demand to the vote of the House and it was carried and the grant made.

Demand XXVI—Loans.

MR. K. ANANTANARAYANA AIYAR: Sir, I beg to move for a grant not exceeding one lakh under Demand XXVI—Loan—Agricultural loans.

The demand was put to the vote of the House by the President and it was carried and the grant made.

SUPPLEMENTARY DEMANDS.

Demand XXVII—Taxes on income.

MR. K. ANANTANARAYANA AIYAR: Sir, I beg to move for a supplementary grant of Rs. 700 under Demand II—taxes on income. The House disapproved the continuance of the Income-tax Inspectors in 1098 and has cut off the whole amount applied for under that item. But it is necessary that the Income-tax Inspectors' work for Karkadakam, 1097, should be paid for. The House must have at least made provision for disbursing the pay of the Inspectors for Karkadakam, 1097, and it is to meet such payment that this supplementary Demand is made. I need hardly bring to the notice of the Council that income-tax work will be seriously affected and that the collection of income-tax will be hampered, if there is no Income-tax Inspector. This is a matter for the consideration of the Council. Probably, it will come up before the House, in another form, for another grant, later on.

MR. T. K. VELU PILLAI: The member is not in order. He may be quite in order, so far as the pay for Karkadakam is concerned, but, regarding the other observation, *i. e.*, about the proposal to be brought forward in future, he is not in order.

PRESIDENT: He only makes a remark.

MR. T. K. VELU PILLAI: That is a thing to be considered only when the actual proposal is made. He was referring to the necessity of bringing fresh proposals.

PRESIDENT: It is not intended to be considered just now.

MR. K. ANANTANARAYANA AIYAR: I do not urge it for the consideration of the Council just now. I only say that the matter will be brought to the notice of the Council in due course.

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MR. A. HOOGEWERF: In the absence of Income-tax collectors how are we to get on?

PRESIDENT: That question does not arise now.

MR. K. ANANTANARAYANA AIYAR: It is absolutely necessary that these Inspectors should be paid for their work in Karkadakam. The pay will be drawn only next month. It is not fair that their pay should be withheld until the Council meets for the next session. I therefore, beg to move for an additional grant of Rs. 700, in round figure.

Mr. G. PARAMESVARAN PILLAI: I rise to a point of order. Rule 53 of the Legislative Council Rules (page 37 of the Manual, paragraph 121) deals with supplementary and additional grants. It says:

"53 (i) An estimate shall be presented to the Council for a supplementary or additional grant when (i) the amount voted in the budget for a grant for which the vote of the Council is necessary is found to be insufficient for the purpose of the current year, or, (ii) a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the budget for that year."

So that, there are only two cases when an additional or supplementary grant can be asked for. The budget for 1098 has been prepared and voted upon. A supplementary grant can be asked for only in the current year, *i. e.* in 1098, after we reach the current year. Not that I object to the disbursement of Rs. 700. Government can very well disburse it. Naturally when my friend proposes to bring forward other supplementary grants, he can very well ask for this also and it will certainly not be objected to, because their salaries up to the end of Karkadakam must necessarily be paid to them. To ask for this additional grant even during this session, *i. e.*, before the end of the "current year" for which the budget is sanctioned, is certainly not contemplated.

PRESIDENT: I should like to hear the Law Member before I give a ruling.

MR. V. SUBBA AIYAR: I do not think that there is any difficulty in the matter at all. In the first place Rule 53 (1) (i) is wide enough to include a case of this kind. It is not necessary that it should be found insufficient in the sense in which my friend would read it.

MR. G. PARAMESVARAN PILLAI: It should be found to be insufficient in the *current* year.

MR V SUBBA AIYAR: When the Council has voted upon the discontinuance of the Inspectors, and when the demand under taxes on income was reduced to the extent of their pay for 12 months, *viz.*, Rs. 9,000, I do not think the Financil Secretary will be justified in paying the Inspectors on the 1st of Chingam; that is to say, when the Council has directed that the payment should not be made, the Financial Secretary will not be justified in making the payment. I believe that when the Council was considering the demand under taxes on income, the Income-Tax Commissioner in a way hinted that he must be empowered at least to pay his men for the present month. The liability has been already

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[Mr. K. P. Raman Pillai.]

incurred. The Commissioner should not be compelled to come up once again before the House saying that, in anticipation of the sanction of the Council, he had paid his men for Karkadakam, 1097. That state of affairs is not contemplated by the rules. If it is not possible to meet from the allotment an expenditure on account of a liability that has already been incurred, we need not wait until the Council meets again. If precedent be of any avail to my friend, Mr. G. Parameswaran Pillai, I may suggest that the very same course was adopted in the Madras Legislative Council also.

MR. G. PARAMESVARAN PILLAI: I should like to know the rules there.

MR. V. SUBBA AIYAR: The rule is exactly the same on the point.

Secondly, if Rule 53 (i) (i) will not apply, it does not preclude us from coming up before the House now. The rule says that, if the grant is found insufficient or when a need arises for a new service, a supplementary grant shall be applied for. This does not preclude Government from coming before the House and saying that a liability within the knowledge of the House has been incurred, that a mistake has been made in the budget in not providing for it, and that the same should be rectified. The Government want to give effect to the decision of the House by discharging the men. But they should be paid for the work they have done. The liability has been incurred and the payment has to be made. My point is that the rule provides for two classes of cases in which the Government may come up before the House. The rule is not exhaustive. It does not say that, if there are palpable mistakes, they should not be rectified when found out. There may be a class of cases in which the acceptance of the decision of the House may necessitate a consequential revision. The amount has to be paid. It is not desirable that payment should be delayed until the Council meets in Vrischikam. In other words, what I say is that the two classes of cases mentioned in the rule are not exhaustive. The rule does not say that the Government should come up before the House for a votable item only in those two instances. In the instances which are strictly covered by the rule it will be possible to come up before the House only next year.

MR. P. K. NARAYANA PILLAI: May I know whether this question has been covered by any rule?

MR. V. SUBBA AIYAR: It is not, strictly speaking, a supplementary grant.

MR. K. P. RAMAN PILLAI: May I submit, that to my mind the matter appears to be very simple and it will be covered by Rule 53, which says that, when the authority concerned finds that the amount is

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insufficient, he might call for an additional grant? The time for the discovery of this insufficiency is not specified in that rule. He may discover this insufficiency either at the time when the budget is presented or in the course of the budget year, when the amount is found to be sufficient for the purpose. It does not say that the amount for the current year will be found to be sufficient. That is the trouble. The current year is 1097, but the grant is made for 1098.

PRESIDENT: I think you are right in spirit. In the Madras Legislative Council, I think it was discussed and decided that, although the supplementary grant was brought forward on the 31st March, for a particular item of expenditure relating to the following year, it was covered by the spirit of the rule.

MR. K. PARAMESVARAN PILLAI: May I know what is the necessity for the supplementary grant? Is it not provided for in the budget for 1097?

PRESIDENT: It is not provided for in the budget for 1097.

MR. K. PARAMESVARAN PILLAI: So, this amount has not been not budgeted for in 1097?

PRESIDENT: The pay for the last month of a particular year is always budgeted for in the next year.

MR. K. PARAMESVARAN PILLAI: In that case what is the difficulty?

PRESIDENT: The rule is not very clear. It might require an amendment.

MR. K. PARAMESVARAN PILLAI: It appears to me also that the rule is not clear. Mr. Subba Aiyar's remark about the word 'insufficient' is not quite clear to me. Under the rule it should not be asked for now. There must be another rule.

PRESIDENT: The only desire of the Government is to avoid expenditure in anticipation of the sanction of the Council.

MR. K PARAMESVARAN PILLAI: Nobody objects to the payment in this case, but it must be brought under some rule.

MR. V. SUBBA AIYAR: I may say, Sir, there is another rule. If the present demand is not covered by Rule 53, there is Standing Order 71. Under Order 71, the President has got the necessary power. It says:

"The President shall have power to regulate the conduct of business in the Council in all matters not provided for in the Regulation, the Rules or the Standing Orders."

So, whether this is covered by any rule or not, he has got the power.

MR. T. K. VELU PILLAI: That course should have been followed at the time when the grant was demanded.

PRESIDENT: I think I can cure that defect now.

MR T. K. VELU PILLAI: Of coure, the President has the power. Mr. Subba Aiyar has pointed out that the instances given in Rule 53 are not exhaustive. It is desirable to follow the directions of the Council in these matters, and Government should not

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[Mr. G. Parameswaran Pillai.]

be put to the necessity of indirectly trying to settle them. If there is a way of indirectly settling the question and liberally considering the rule, effect should be given to that. That is quite reasonable.

MR. G. PARAMESVARAN PILLAI: Standing order 71 says that, in matters not provided for in the Regulations, Rules, or the Standing Orders, the President has power. In what particular cases, it does not specify. Mr. Subba Aiyar is asked to explain it under Rule 53 now, but he quotes Rule 71. So far as this particular case is concerned, the House may not raise any objection; but this should not be taken as a precedent.

MR. K. ANANTANARAYANA AIYAR: I rise to a point of explanation on a legal point. Rule 53 applies when a grant is applied for during the current year, that is during the year for which the expenditure is allowed. I applied for a grant for the year before that. That rule, therefore, does not apply here. Section 16 (9) of the Regulation says:-

"Notwithstanding anything in this Section, Our Government shall have power in cases of emergency to authorise such expenditure as may, in the opinion of our Government, be necessary in the interest of Our Government, or for the carrying on of any Department".

Government have the power under that Section, so far as the present grant is concerned; but, in deference to the House I have tabled this motion for its sanction.

MR. G. PARAMESVARAN PILLAI: I withdraw my objection, provided this will not be taken as a precedent.

PRESIDENT: If the House is not inclined to think that it is not covered by Rule 53, even in spirit, I do not see why the official side should press this motion at all at this stage. It can come up later on.

MR. V. SUBBA AIYAR: This is a case of urgency. The other two cases may perhaps wait; but in the case of persons who have served for 12 months in 1097, how can their pay be delayed or paid in anticipation of sanction?

MR. K. GEORGE: All these people can be paid on the last day of 1097. There are two other motions.

PRESIDENT: One is the pay of a short-hand instructor for the Commercial School at Alleppey which has been omitted in the budget by inadvertence. The other is the grant for the establishment of a temporary Second and Additional Sessions Court at Quilon.

MR. K. PARAMESVARAN PILLAI: My only question is that paragraph 119 (3) of the Manual can only refer to cases of emergency which could not have been anticipated and which were not vetoed by the Council. Here are two cases which could have been anticipated.

MR. G. PARAMESVARAN PILLAI: There is nothing in the Rules or in the Standing Orders which prohibits or prevents the Financial Secretary or the officers concerned from paying the salaries under establishments. There is nothing which prohibits them from

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incurring that expenditure until a supplementary demand is brought before this House next year. As regards the phrase "is found to be sufficient," the budget will become insufficient during the course of next year.

MR. V. SUBBA AIYAR: There is also another aspect of the matter. Rule 53 will apply to cases where we have done with the budget. We have not finished the budget yet in the present case. The discussion of the budget may continue up to 5 P. M. under the rules. If motions are made now, corrections may be put in yet. We are not *out* of the budget. Supposing the Financial Secretary finds a mistake in the budget in the figures as voted by the Council, he can come and point out that 8+2 is 10 and not 11. So also in the case of other palpable mistakes, I believe we need not be highly technical and highly critical in all these matters.

PRESIDENT: That is the established practice.

MR. V. SUBBA AIYAR: Of course, in the budget, ever so many corrections will have to be made as a result of the discussion. Another disadvantage is, supposing we act upon our power, and establish a Court anticipating the sanction of the Council which is to meet in Vrischikam, and supposing the Council then decides that the Court is not necessary, the Government will be reduced to an awkward position. It will not be fair to this House either, since the matter could have been brought before it even though 'at this late stage'. My friends need not be hypercritical.

MR. G. PARAMESVARAN PILLAI: It is not a question of being hypercritical.

PRESIDENT: With regard to the Income-Tax Commissioner's motion for a grant of Rs. 700, I take it that the House accepts it.

The demand was put and carried and the grant made.

Demand XXVIII—Administration of Justice.

MR. R. KRISHNA PILLAI: Sir, I move for a grant not exceeding Rs. 2,500 under Administration of Justice, in addition to Demand XI, for the establishment of an additional Sessions Court at Quilon. Since the preparation of the budget, the High Court have brought to the notice of Government the existence of heavy arrears in the Courts of Quilon and Trivandrum, and have strongly urged the necessity of appointing additional Judges and opening new courts at Quilon and Trivandrum. Government have considered the proposal and the present demand is only for one temporary additional court at Quilon for eleven months next year.

MR. V. SUBBA AIYAR: The appointment begins only from Chingam and so the court is only for eleven months. The question of the continuance of the Court in Karkadakam, 1098, does not come up for consideration now.

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